

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

STEPHEN ELLSWORTH, MARILYN
WEAVER, and LAWRENCE AND DONENE
SKELLEY, individually and as representatives
of the classes and on behalf of the general
public,

Plaintiffs,

v.

U.S. BANK, N.A. and AMERICAN
SECURITY INSURANCE COMPANY,

Defendants.

Case No. 3:12-CV-02506-LB

FINAL JUDGMENT

1 This action having settled pursuant to the Parties' Class Action Settlement Agreement and
2 Release (the "Settlement Agreement"), and the Court having entered an Order Granting Final
3 Approval Of Class Action Settlement ("Final Approval Order"), IT IS HEREBY ORDERED,
4 ADJUDGED AND DECREED that:

5 1. This action, including all individual claims and class claims presented herein, is
6 hereby dismissed on the merits and with prejudice against the Named Plaintiffs and all other Class
7 Members (excluding those Class Members who have timely and validly requested exclusion from
8 the Settlement), without fees or costs to any party except as otherwise provided in this Final
9 Judgment.

10 2. The following definitions apply for purposes of this Final Judgment, consistent with
11 the Parties' Settlement Agreement:

- 12 a. "Affiliate" of an entity means any person or entity which controls, is
13 controlled by, or is under common control with such entity.
- 14 b. "ASIC" means American Security Insurance Company.
- 15 c. "Backdated" lender-placed flood insurance means lender-placed flood
16 insurance with an effective date prior to its issue date.
- 17 d. "Class Members" means the persons falling within the definitions of the
18 classes certified by this Court in its June 13, 2014 Class Certification Order,
19 as amended by the Order dated August 20, 2014 (ECF 261), attached to the
20 Settlement Agreement as Exhibit A.
- 21 e. The "Class Periods" are those periods made applicable to the classes in the
22 June 13, 2014 Class Certification Order, as amended by the Order dated
23 August 20, 2014. When otherwise not provided in the August 20, 2014
24 Order, the Class Periods terminate as of the date of the Settlement
25 Agreement.
- 26 f. "Defendants" means U.S. Bank and ASIC.
- 27 g. "Named Plaintiffs" means Stephen Ellsworth, Marilyn Weaver, and
28 Lawrence and Donene Skelley.

1 h. “Released Claims” means all claims, actions, causes of action, suits, debts,
2 sums of money, payments, obligations, reckonings, promises, damages,
3 penalties, attorney’s fees and costs, liens, judgments, and demands of any
4 kind whatsoever that each Class Member may have until the close of the
5 Class Periods or may have had in the past, whether in arbitration,
6 administrative, or judicial proceedings, whether as individual claims or as
7 claims asserted on a class basis, whether past or present, mature or not yet
8 mature, known or unknown, suspected or unsuspected, whether based on
9 federal, state, or local law, statute, ordinance, regulations, contract, common
10 law, or any other source, that were or could have been sought or alleged in
11 the Action that relate, concern, arise from, or pertain in any way to the
12 Released Parties’ conduct, policies, or practices concerning lender-placed
13 flood insurance or to charges for U.S. Bank’s placement, or ASIC’s issuance,
14 of lender-placed flood insurance during the Class Periods, including but not
15 limited to conduct, policies or practices concerning lender-placed flood
16 insurance or charges for U.S. Bank’s placement of lender-placed flood
17 insurance during the Class Periods. The Named Plaintiffs explicitly
18 acknowledge that unknown losses or claims could possibly exist and that any
19 present losses may have been underestimated in amount or severity.

20 i. “Released Parties” means U.S. Bank and ASIC, and each and all of their
21 respective past, present, and future divisions, parents, subsidiaries,
22 predecessors, investors, parent companies, Affiliates, and each and all of
23 their respective past, present, and future directors, officers, managers,
24 employees, general partners, limited partners, principals, agents, brokers,
25 distributors, insurers, reinsurers, shareholders, attorneys, advisors,
26 representatives, predecessors, successors, divisions, joint ventures, assigns,
27 or related entities, and each and all of their respective executors, successors,
28 assigns, and legal representatives.

j. “U.S. Bank” means U.S. Bank National Association.

3. Defendants shall make the settlement payments to Class Members provided by Paragraph 23 of the Settlement Agreement within 14 days of the Effective Date of the Settlement Agreement. These settlement payments shall be mailed to Class Members by the Court-appointed Settlement Administrator, Dahl Administration LLC, in the manner provided by the Settlement Agreement.

4. Defendants shall pay attorneys’ fees and expenses in the amount of \$625,000 to Class Counsel (Nichols Kaster, PLLP) within 10 days of the Effective Date of the Settlement Agreement.

5. Defendants shall pay three class representative service awards of \$2,500 each to (1) Stephen Ellsworth, (2) Marilyn Weaver, and (3) Lawrence and Donene Skelley (jointly), within 10 days of the Effective Date of the Settlement Agreement.

6. Upon the Effective Date of this Settlement, the Named Plaintiffs and each Class Member (excluding those Class Members who have timely and validly requested exclusion from the Settlement) and his or her assigns, heirs, successors and personal representatives shall be deemed to have fully, conclusively, irrevocably, forever, and finally released, resolved, relinquished, and discharged each and all of the Released Parties from each of the Released Claims that exist in their favor through the end of the Class Periods. The Named Plaintiffs and Class Members further shall not institute any action or cause of action (in law, in equity, or administratively), suits, debts, liens, or claims, known or unknown, fixed or contingent, which they may have or claim to have in state or federal court, or with any state, federal or local government agency or with any administrative or advisory body, asserting the Released Claims. These Released Claims shall include but not be limited to, all claims related to U.S. Bank’s flood insurance requirements; the relationship, whether contractual or otherwise, between U.S. Bank (and its Affiliates) and ASIC (and its Affiliates) regarding lender-placed flood insurance, including, but not limited to, the procuring, underwriting, placement, insurance tracking, or costs of lender-placed flood insurance; the coverage amount, duration, issue date, alleged “backdating,” or alleged excessiveness of any of lender-placed flood insurance placed or charged by U.S. Bank; the payment

1 or receipt of commissions, expense reimbursements, alleged “kickbacks,” or any other
2 compensation under any lender-placed flood insurance placed or charged by U.S. Bank; any alleged
3 “tying” arrangement involving U.S. Bank and lender-placed flood insurance; any alleged breach of
4 fiduciary duty by U.S. Bank concerning lender-placed flood insurance; any alleged tortious
5 interference by ASIC (or its Affiliates) with mortgage loans serviced by U.S. Bank; the disclosure
6 or non-disclosure of any payment, expenses, fees, charges, or features pertaining to or under any
7 lender-placed flood insurance or coverage under such lender-placed flood insurance and charges for
8 such coverage placed or charged by U.S. Bank; the receipt or non-disclosure of any benefit under
9 any lender-placed flood insurance or coverage under such lender-placed flood insurance and
10 charges for such coverage placed or charged by U.S. Bank; the content, manner, or accuracy of any
11 communications regarding the placement of any lender-placed flood insurance by U.S. Bank; or the
12 regulatory approval or non-approval of any lender-placed flood insurance, or the premium thereon,
13 placed or charged by U.S. Bank. Without in any way limiting its scope, this Class Release covers
14 by example and without limitation, any and all claims for attorneys’ fees, costs, expert fees, or
15 consultant fees, interest, or litigation fees, or any other fees, costs, or disbursements incurred by
16 Class Counsel, the Named Plaintiffs, or any Class Members in connection with or related in any
17 manner to this Action, the settlement of this Action, the administration of the Settlement, or the
18 Released Claims, except to the extent otherwise specified in the Settlement Agreement.
19 Notwithstanding the foregoing, this Class Release is effective only as to claims relating to those
20 lender-placed flood insurance policies reflected in the Class Data produced by U.S. Bank and ASIC
21 in connection with these Actions.

22 7. The Named Plaintiffs and each and every Class Member (excluding those Class
23 Members who submitted a timely and valid request for exclusion) and their respective assigns,
24 heirs, successors, and personal representatives, have released the Released Claims (as defined
25 herein and in the Final Order) as against the Released Parties (as defined herein and in the Final
26 Order), and are, from this day forward, hereby permanently barred and enjoined, as of the Effective
27 Date of the Settlement, from (1) bringing, joining, continuing to prosecute or participating in (as
28 class members or otherwise) any action asserting the Released Claims; and (2) organizing Class

1 Members, or soliciting the participation of Class Members, in a separate class for purposes of
2 pursuing any action (including by seeking to amend a pending complaint to include class
3 allegations, or seeking class certification in a pending action in any jurisdiction) based on or
4 relating to any of the Released Claims.

5 8. Notwithstanding the dismissal of this entire action, at the Parties' consent,
6 Magistrate Judge Nathanael Cousins, of the Northern District of California, shall retain jurisdiction
7 over the construction, interpretation, consummation, implementation, and enforcement of the
8 Settlement Agreement, including jurisdiction to enter such further orders as may be necessary or
9 appropriate, subject to the exception provided for in Paragraph 19 of the Class Action Settlement
10 Agreement and Release.

11 DONE and ORDERED in in San Francisco, California, this 24th day of September, 2015.



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13 LAUREL BEELER
14 United States Magistrate Judge
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